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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/669,203	09/25/2000	HIROAKI KUBO	15162/02540	4054
24367	7590	06/03/2005	EXAMINER	
SIDLEY AUSTIN BROWN & WOOD LLP 717 NORTH HARWOOD SUITE 3400 DALLAS, TX 75201			SELBY, GEVELL V	
		ART UNIT	PAPER NUMBER	
			2615	

DATE MAILED: 06/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/669,203	KUBO, HIROAKI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Gevell Selby	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 15 July 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-14 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-8 is/are allowed.
- 6) Claim(s) 9-14 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 25 September 2000 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>7/15/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments, see the amendment, filed 7/15/04, with respect to claims 1-8 have been fully considered and are persuasive. The 35 U.S.C. 102 and 103 rejections of claims 1-8 have been withdrawn.
2. Applicant's arguments, see the amendment, filed 7/15/04, with respect to the rejection(s) of claim(s) 9-14 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Masahito, JP 8,327,917.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 9-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Masahito, JP 8,327,917.**

In regard to claims 9 and 12, Masahito, JP 8,327,917, discloses a digital camera comprising:

an image sensing unit (see figure 10, element 42) for sensing a subject image (see paragraph 41);

a detector (see figure 10, element 49) for detecting a degree of correlation between image data of a plurality of frames from said image sensing unit before shooting (see paragraph 48);

a memory (it is inherent the microprocessor (49) has a memory, in order to save the programs it must run to operate) for storing a first program and (when subject is still) a second program (when subject's motion is quick) to control an exposure time and aperture value of said image sensing unit, wherein the exposure time and aperture value based on the second program is set to be shorter than the exposure time and smaller aperture value (it is inherent when the shutter speed is set higher the exposure time is set shorter and aperture value are set to be smaller) based on the first program (see paragraphs 48 and 50);

a selector (see figure 10, element 49) for selecting the second program in the case where the degree of correlation is lower than a predetermined level (see paragraph 48); and

a recorder (see Nakano: figure 10, element 46) for recording image data from said image sensing unit controlled based on the second program (see paragraph 49).

In regard to claims 10 and 13, Masahito, JP 8,327,917, discloses a digital camera according to claims 9 and 12, wherein said selector selects the first program in the case where the brightness of the subject is lower than a predetermined value (see paragraph 50).

In regard to claims 11 and 14, Masahito, JP 8,327,917, discloses an exposure control method of a digital camera, comprising the steps of:

sensing a subject image by an image sensing unit (see paragraph 41);  
detecting a degree of correlation between image data of a plurality of frames from said image sensing unit before shooting (see paragraph 48);  
storing a first program (when the subject is still) and a second program (when the subject's motion is quick) to control an exposure time and aperture value of said image sensing unit, wherein the exposure time based on the second program is set to be shorter than the exposure time and smaller than the aperture value (it is inherent when the shutter speed is set higher the exposure time is set shorter and aperture value are set to be smaller) based on the first program (see paragraphs 48 and 50);  
selecting the second program in the case where the degree of correlation is lower than a predetermined level (see paragraph 48); and  
recording image data from said image sensing unit controlled based on the second program (see paragraph 49).

***Allowable Subject Matter***

5. Claims 1-8 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter:

In regard to claims 1-8, the prior art does not disclose the combination of limitations claimed, specifically the limitations of "a resolution reducer for reducing

image data of a frame sensed by said image sensing unit" and "a detector for detecting a degree of correlation between reduced image data of a plurality of frames from said resolution reducer before shooting".

***Conclusion***

7. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on July 15, 2004 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609(B)(2)(i). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 571-272-7369. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs



TUAN HO  
PRIMARY EXAMINER